

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

JUAN J. CORTES, YOJAN CORTES,
ADOLFO GARCIA, AMANDA
GONZALES, HIPOLITO M.
MARRERO, HERNAN M. MINAYA,
ROBERTO J. ROSALES, JOSE A.
SALAS, CRESPIB BAILON, JOSE
BUENO, CERAFIN JIMINEZ,
MARIA PALACIOS, JORGE
SANCHEZ, CLARO JIMINEZ,
EFRAN PALACIOS, and JOSUE
APARICIO,

Plaintiffs,

v.

MAC ACQUISITION, LLC d/b/a
Romano's Macaroni Grill,

Defendant.

CIVIL NO. 1:14-cv-00042-JOF

**JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENTS
AND DISMISSAL OF ACTION WITH PREJUDICE**

Plaintiffs Juan J. Cortes, Yojan Cortes, Adolfo Garcia, Amanda Gonzales, Hipolito M. Marrero, Hernan M. Minaya, Roberto J. Rosales, Jose A. Salas, Crespin Bailon, Jose Bueno, Cerafin Jiminez, Maria Palacios, Jorge Sanches, Claro Jiminez, Efran Palacios and Josue Aparicio (collectively "Plaintiffs") and Defendant Mac Acquisition, LLC d/b/a Romano's Macaroni Grill ("Defendant"), jointly move the Court to approve the settlement agreements Plaintiffs and

Defendant have entered into and to dismiss this action with prejudice. In support of their request, the parties jointly state and agree to the following.

Plaintiffs are current and former employees of Defendant. Plaintiffs contend in this action that Defendant failed to pay them for all hours worked and failed to pay them all overtime wages they were owed. Plaintiffs brought claims under the Fair Labor Standards Act (“FLSA”) as well as state law claims for unjust enrichment, quantum meruit, and breach of contract. Defendant generally denies Plaintiffs’ allegations and denies that Plaintiffs are entitled to the relief they seek.

In the context of a private lawsuit brought by an employee against an employer under the FLSA, an employee may settle and release FLSA claims against an employer if the parties present the district court with a proposed settlement and the district court enters a stipulated judgment approving the fairness of the settlement. *See Lynn’s Food Stores, Inc. v. United States*, 679 F.2d 1350, 1353 (11th Cir. 1982). As the Eleventh Circuit explained in *Lynn’s Food Stores*:

Settlements may be permissible in the context of a suit brought by employees under the FLSA for back wages because initiation of the action by the employee provides some assurance of an adversarial context. The employees are likely to be represented by an attorney who can protect their rights under the statute. Thus, when the parties submit a settlement to the court for approval, the settlement is more likely to reflect a reasonable compromise of disputed issues than a mere waiver of statutory rights brought by an employer’s overreaching, if a settlement in an employee FLSA suit does reflect a reasonable compromise over issues, such as FLSA coverage or computation of back wages that are actually in dispute, we allow the

district court to approve the settlement in order to promote the policy of encouraging settlement of litigation.

Id. at 1354.

In this case, after extensive settlement negotiations, the parties have reached an amicable resolution of Plaintiffs' claims.¹ Prior to reaching settlement, the parties informally shared information and documents, including Plaintiffs' time and pay records. The parties agree that the settlement represents a fair and reasonable compromise of the disputed legal and factual issues in this case. Those legal and factual issues include whether Plaintiffs worked "off the clock," whether any alleged off the clock work resulted in uncompensated overtime, the extent of any alleged off the clock work, whether Defendant was aware of any alleged off the clock work, whether Plaintiffs are entitled to liquidated damages under the FLSA, and whether Plaintiffs can prove Defendant willfully violated the FLSA.

In addition, all parties were counseled and represented by their respective attorneys throughout the litigation and settlement process. The parties' respective counsel are experienced wage and hour litigators and believe this settlement is fair and reasonable in light of the strengths and weaknesses of the parties' claims and defenses and the risks of continued litigation. The parties' proposed settlement is the result of extensive, arm's-length negotiations and is not the result of collusion.

¹ Copies of the settlement agreements executed by the parties are attached hereto as Exhibits 2-17 for the Court's review.

For the foregoing reasons, the parties respectfully request that the Court approve the settlement agreements entered into between the Plaintiffs and Defendant. The parties also request that the Court dismiss this action *with prejudice*. A proposed order is attached hereto as Exhibit 1 for the Court's consideration.

Jointly and respectfully submitted this 8th day of July, 2014.

/s/ Eric Magnus

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Defendant.

CIVIL NO. 1:14-cv-00042-JOF

CERTIFICATE OF SERVICE

I certify that on July 8, 2014, I electronically filed the foregoing **JOINT MOTION FOR APPROVAL OF SETTLEMENT AGREEMENTS AND DISMISSAL OF ACTION WITH PREJUDICE** with the Clerk of the Court using the CM/ECF system which will automatically send email notification of such filing to all attorneys authorized to receive such notification.

/s/ Andrew Weiner
Counsel for Plaintiffs